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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,997	10/03/2003	Mark Bonner	HI 03-01	9236
7590	04/23/2004		EXAMINER	
R. Alan Bonner Suite 1 One 8th Street Frenchtown, NJ 08825			ABBOTT, YVONNE RENEE	
			ART UNIT	PAPER NUMBER
			3644	

DATE MAILED: 04/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/677,997

Applicant(s)

BONNER ET AL.

Examiner

Yvonne R. Abbott

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/1/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 2 and 6 are objected to because of the following informalities: In claim 2, line 1, "an" should be --a--; In claim 6, "strait" is misspelled.. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 6, the "contours" lack prior antecedent basis.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 4 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Tarng et al. (US 2003/0045200). Tarng et al. show a disk (10) which is capable of

being used for animal exercise comprising an upper surface and a lower surface, and a means for attaching the disk to a hub (34); wherein the disk is contoured via wall (31) and screw (32) to conform to the shape of the hub; wherein the hub is a part of an activity and entertainment apparatus; wherein the contour of the center portion of the disk is contrary to the contour of the exterior or outer portion of the disk; wherein the contour of the disk is parabolic.

5. Claims 1, 4 are rejected under 35 U.S.C. 102(b) as being anticipated by McClung, III (5,799,616). McClung, III shows a disk (60) which is capable of being used for animal exercise comprising an upper surface and a lower surface, and a means for attaching the disk to a hub (66); wherein the disk has a recess (64) which is contoured to conform to the shape of the hub; wherein the contour of the center portion of the disk is contrary to the contour of the exterior or outer portion of the disk.

6. Claims 1-4, 6,7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Ross, Jr. (4,212,131). Ross, Jr. shows a plastic disk (31) which is capable of being used for animal exercise comprising an upper surface and a lower surface, and a means for attaching the disk to a hub (32); wherein the hub is an activity and entertainment apparatus; wherein the disk is contoured to conform to the shape of the hub; wherein the contour of the center portion of the disk slopes downwardly away from the center, transitioning in the exterior or outer portion of the disk to slope upwardly at (13); wherein the contour of the center portion of the disk is contrary to the contour of the

exterior portion of the disk; wherein the contour of the disk is parabolic, or arched; and wherein the surface of the disk is textured (14a, 14b, 14c).

7. Claims 1, 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson (3,454,760). Wilson shows a plastic disk (5) which is capable of being used for animal exercise comprising an upper surface and a lower surface, and a means for attaching the disk to a hub (8); wherein the disk is contoured to conform to the shape of the hub; wherein the contour of the center portion of the disk is contrary to the contour of the exterior or outer portion of the disk; wherein the means for attachment is a pin centrally located on the lower surface of the disk; wherein the contour of the disk is parabolic or arched.

8. Claims 1, 2, 4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Farhi et al. (3,272,731). Farhi et al. show a disk (10) which is capable of being used for animal exercise comprising an upper surface and a lower surface, and a means for attaching the disk to a hub (28); wherein the disk is contoured via recess (24) to conform to the shape of the hub; wherein the hub is part of an activity and entertainment apparatus; wherein the contour of the center portion of the disk is contrary to the contour of the exterior portion of the disk; wherein the contour of the disk is parabolic.

9. Claims 1, 3, 4, 6, 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hull (6,578,526). Hull shows a disk (52) which is capable of being used for animal exercise comprising an upper surface and a lower surface, and a means for attaching

the disk to a hub or distal end (64) of stand (54); wherein the disk is contoured at center opening (82) to conform to the shape of the hub; and wherein the contour of the center portion or center opening slopes downwardly away from the center, transitioning in the exterior or outer portion of the disk to slope upwardly at the periphery (58); wherein the contour of the center portion of the disk is contrary to the contour of the exterior portion of the disk; wherein the contour of the disk is parabolic; wherein the disk is made from metal.

10. Claims 1, 2 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Saloor (5,674,101). Saloor shows a disk (3) which is capable of being used for animal exercise comprising an upper surface and a lower surface, and a means for attaching the disk to a hub (2); wherein the disk is contoured to conform to the shape of the hub; wherein the hub is activity equipment; wherein the surface of the disk is textured at (5).

11. Claims 1, 2, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Levin (5,360,363). Levin shows a plastic flying disk (20) comprising an upper surface and a lower surface, and a means for attaching the disk to a hub (22); wherein the disk is contoured to conform to the shape of the hub; wherein the hub is activity equipment; wherein the disk contour is parabolic.

12. Claims 1, 2, 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Suchowski et al. (3,994,262). Suchowski et al. show a plastic disk (15) comprising an upper surface and a lower surface, and a means for attaching the disk to a hub (19);

wherein the width of the disk is contoured to conform to the shape of the hub; wherein the hub is activity equipment; wherein the disk contour is radiused; wherein the surface of the disk is textured.

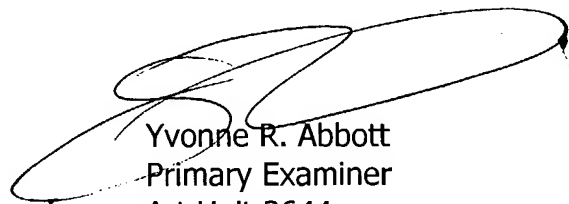
13. Claims 1, 2 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Rodemeyer (3,999,519). Rodemeyer shows a plastic disk (12) comprising an upper surface and a lower surface, and a means for attaching the disk to a hub (64); wherein the disk is contoured to conform to the shape of the hub; wherein the hub is part of a shelter/ feeding/ activity equipment; wherein the disk contour is radiused; wherein the surface of the disk is textured.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (703)308-2866. The examiner can normally be reached on 7:30-5:00 flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T. Jordan can be reached on (703)306-4159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne R. Abbott  
Primary Examiner  
Art Unit 3644

04/15/04